THE HONOURABLE SRI JUSTICE GODA RAGHURAM

Writ Petition No.19644 of 2006

Dated: 21st September, 2006

Between:

G.Satyanarayana
and others.

…..PETITIONERS

AND

Manager Group of Temples,
Departmetn of Endowments,
Govt of A.P., Village Kottam,
Vizianagaram District and
others.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE
GODA RAGHURAM

W.P. No.19644 of 2006

ORAL ORDER:

Writ petition is filed contending that the action of the 1st respondent in proposing to auction, for the purpose of grant of leasehold rights of specified extents of lands in Sy.No. 59/3, 59/4, 135/1236/5,71/6, 117/13, 55/2, 43/1, 44/1 and 43/2 located in Srirampuram village, Lakkavarapukota mandal of Vizianagaram district, by auction notifications dated 10-9-2006 and 13-9-2006, is illegal, and for a direction to the 3rd respondent to conduct enquiry in respect of the lands of the petitioners with respect to the revenue records maintained by the 4th respondent for determining the rights of possession of the petitioners in respect of the lands; and for a further declaration that in the event the respondents 1 and 2 proposed to lease out or sell the properties, insofar as they pertain to petitioners who are protected tenants, to lease and sell them to such petitioners, in accordance with the provisions of the Endowments Act.

The petitioners claim to be agriculturists of Srirampuram village, Lakkavarapukota mandal of Vizianagaram district. According to the writ petition there is no extent of Acs.2.62 cents in Sy.No.59/2 and

erroneously the lands in the possession of the 1st petitioner in Sy.No.59/3 are shown as lands belonging to the Devasthanam. 2nd petitioner claims to have been cultivating an extent of Ac.1.87 cents in Sy.No.36/5, Ac.0.47 cents in Sy.No.71/6 and Ac.0.74 cents in Sy.No.117/13 in Srirampuram village, since three decades, claims to be protected tenant and as also asserts that he is paying cist in respect of the said property.

The 3rd petitioner claims to be the owner and in possession of an extent of Ac.0.52 cents in Sy.No.55/2. The 4th petitioner claims to be a protected tenant in respect of Ac.0.82 cents in Sy.No.43/1 since he is cultivating the lands since the time of his ancestors. Petitioners circumlocutously plead that: *"the Gift deed executed in the year 1973 in respect of the above said land was not known to the 4th petitioner, however, it is submitted that the 4th petitioner, his father and his forefather has been in continuous possession of the above said land without their being any interruption."* What gift deed is referred to, executed by whom and in whose favour, is not clear.

The learned counsel for the petitioners states that the 4th petitioner is a tenant and his elders appears to have gifted the land during the currency of the 4th petitioner's tenancy to the Devsthanam and this is what is referred in the said pleadings. Be that as it may the 5th petitioner also pleads to be a cultivating tenant, in an extent of Ac.0.96 cents in Sy.No.44//1 since the time of his forefathers and claims that this land was illegally included for public auction. Now the extents of the lands and the survey numbers mentioned by the petitioners and notified for public auction in the first respondent notification dated 10-9-2006 do not tally. If the petitioner has a dispute as to the extent of the lands or survey numbers, identification of the lands in question or of title,, the appropriate remedy is to seek relief

before the civil court of competent jurisdiction.

The 1st respondent has issued another auction notification dated 3-9-2006 in which specified extents of lands of Sri Seetharama Lakshmana Swamy devasthanam in Sy.Nos.36/5, 43/1, 44/1, 59/1, 71/6, 87/5, 114/3, 117/13, 135/12 and 55/2 of Srirampuram village and are notified for public auction for grant of lease hold leasehold rights. Some of the survey numbers are those in respect of which the petitioners claim either tenancy rights or ownership rights or dispute the extents or boundaries. Insofar as disputes regarding boundaries and extents are concerned, such disputes are more appropriately adjudicated before the civil court of competent jurisdiction. Insofar as the claim of petitioners 2, 4, 5 and 7 to being cultivating tenants, landless poor persons and therefore entitled for benefit under Section 82 of Andhra Pradesh Charitable And Hindu Religious Institutions & Endowments Act, 1987(the Act) is concerned, this claim is misconceived. Petitioners neither plead, assert or demonstrate before this Court that they ever had a relationship of landlord and tenant between the Devasthanam and themselves. In the absence of such a relationship, the petitioners cannot be considered to be cultivating tenants within the meaning of the said expression under Section 82 of the Act.

It is not pleaded or established that the Devasthanam had ever granted any tenancy in their favour nor is a lease pleaded to have been granted after a process of public auction. A lease deed is not stated to have been executed in their favour by the Devasthanam. They did not even assert to having paid any lease amounts to the Devasthanam. In such a factual matrix, the petitioners claim to be cultivating tenants of endowment lands and therefore entitled to the benefit under Section 82 of the Act is a claim that is extravagant and

misconceived and warrants no consideration.

For all the above said reasons, there are no merits and the writ petition is dismissed. The petitioners are at liberty to lodge or urge disputes as to ownership, title or extents or boundaries of the lands notified for public auction by the 1st respondent vide notification dated 10-9-2006 and 13-9-2006 before a civil Court of competent jurisdiction or any other forum which has jurisdiction authority and power to decide the disputed questions of fact and title. No order as to costs.

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(GODA RAGHURAM,J)

Date:21st September, 2006.
GRK